THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.1463 OF 2007

DATED; 25-01-2007

Between :

Gulam Mutafa Rabbani ... Petitioner

And

A.P. State Wakf Board, rep. by its Chief Executive Officer, with its office at Haj Office, Opp: Public Garden, Nampally, Hyderabad. ... Respondent

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.1463 OF 2007

ORDER :

Heard the learned Counsel for the petitioner and perused the material on record.

On the basis of the complaint received from the Secretary, Darga Hazarath Barhan Shah Shaib alleging that the land of the institution is encroached, a notice under Section 54 (1) of the Wakf Act, 1995 was issued to the encroachers by the respondent – A.P. State Wkaf Board. The father of the petitioner late Gulam Samdani was shown as one of the encroachers and the said notice was served on the petitioner calling upon to explain the allegations.

In response, the petitioner had submitted his reply on 17-5-2004. Pursuant thereto, the respondent by order dated 14-6-2004 authorised the Executive Officer of the A.P. State Wakf Board to conduct an enquiry into the claims of the encroachers and submit his findings. Having conducted an enquiry, the enquiry officer submitted a report dated 7-6-2006.

This writ petition is filed seeking a declaration that the said report dated 7-6-2006 is arbitrary, illegal and violative of principles of natural justice. It is also contended that the findings recorded by the Enquiry Officer are contrary to the earlier order passed by the respondent Board on 14-7-2003 under which the existing Managing Committee was dissolved and the institution in question was taken under the direct management of the Board.

At the outset, it is to be noted that after considering the report submitted by the Enquiry Officer, the Chief Executive Officer has to take a decision as to the alleged encroachments. Under Section

54 of the Wakf Act, the Chief Executive Officer of the respondent Board is the Competent Authority to pass an order for removal of encroachment on being satisfied after conducting enquiry that there has been such encroachment of any wakf property. Admittedly such order has not yet been passed and what is challenged is only the report of the Enquiry Officer. Since admittedly there is no adverse order as such as on today, the writ petition is premature and liable to be dismissed on that ground alone.

Accordingly, the Writ Petition is dismissed. However, this shall not preclude the petitioner to institute fresh proceedings in accordance with law in case any adverse order is passed by the respondent Board. No costs.

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G. ROHINI, J.

Dt. 25th January, 2007.
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